

**Before the
Federal Communications Commission
Washington, D.C.**

In the Matter of)	
)	WC Docket No. 02-60
Rural Health Care)	
Support Mechanism)	FRN #s 19666881, 19667941,
)	19667981, 19668121, 19668131,
Request for Waiver)	19668331, 19668531, 19668541,
of the Commission's Rule)	19668551, 19668561, and 19668571
by Variety Care, Inc., et al.)	

**REQUEST FOR WAIVER OF FUNDING YEAR 2019
RURAL HEALTH CARE PROGRAM FILING DEADLINE**

On behalf of the health care providers listed in the attached exhibit,¹ Kellogg & Sovereign Consulting, LLC hereby requests waivers of the Funding Year 2019 Rural Health Care Healthcare Connect (RHC) filing deadline as established by the Universal Service Administrative Company (USAC).² Kellogg & Sovereign³ was unable to submit these 11 funding requests due to the extensive flooding, tornado activity, and associated business closings in Oklahoma either in response to serious warnings or in the aftermath of damage to homes and businesses.

As of May 28, 2019, just three days before the RHC FY 2019 deadline, all 77 counties in Oklahoma were in a state of emergency declared by Gov. Kevin Stitt.⁴ In several counties,

¹ Exhibit 1, List of Affected Funding Requests. The USAC-established filing window for FY 2019 closed on May 31. See USAC Program Calendar (FY 2019), <https://www.usac.org/rhc/tools/program-calendar.aspx?pgm=hcc>.

² See 47 C.F.R. § 54.675(c)(2).

³ Kellogg & Sovereign Consulting, LLC is the consultant for the Health Care Providers in Exhibit 1 for the above captioned FRNs.

⁴ See, e.g., Exhibit 2, Manny Fernandez, *'Blocked Off From Civilization': Floodwaters Turn Oklahoma Town Into an Island*, New York Times (May 28, 2019) <https://www.nytimes.com/2019/05/28/us/floods-oklahoma-braggs.html>; Exhibit 3, Doug Criss, *Every Single County in Oklahoma is Under a State of*

including the counties that include Oklahoma City and Tulsa, Oklahoma, officials issued flood warnings the week of May 31, 2019, and urged residents to use extreme caution when driving.⁵

Both federal and state emergency agencies have declared these events as major disasters.⁶ Due to these weather conditions, the affected parties were unable to complete all paperwork necessary to submit their funding requests by the May 31 deadline.

Kellogg and Sovereign would have been able to submit the funding requests within a few days of the deadline, but unfortunately USAC's RHC system will not accept submissions after the deadline. As described further below, we are filing this waiver request within a few weeks of the deadline and have attached screenshots to demonstrate that Kellogg and Sovereign could have submitted the funding requests within 14 days if USAC's system had allowed it to do so. It is in the public interest for these waivers to be granted because the Oklahoma severe weather constituted special circumstances. Such a decision by the Commission would be consistent with previous waivers granted in times of natural disasters, as well as the Commission's other orders allowing applications to be filed within a 14-day grace period.

I. BACKGROUND

Throughout the month of May 2019, Oklahoma experienced an ongoing series of disastrous weather events including approximately 61 tornadoes, damaging winds, hail and severe flooding. According to NOAA, these events caused six fatalities, 118 injuries and over

Emergency, CNN (May 28, 2019) <https://www.cnn.com/2019/05/28/us/oklahoma-counties-emergency-wxc-trnd/index.html>.

⁵ Exhibit 4, Stetson Payne, *Update: 'Extremely dangerous and life-threatening situation': Flood warning through Friday afternoon*," Tulsa World (May 29, 2019) https://www.tulsaworld.com/news/state-and-regional/update-extremely-dangerous-and-life-threatening-situation-flood-warning-through/article_f1473e67-c076-5c4b-b4c3-0bb0f13af572.htm.

⁶ Exhibit 5, press releases from federal and state government regarding designation of counties as disaster areas.

1,000 homes damaged or destroyed in Oklahoma.⁷ Thousands of residents were under mandatory evacuation, including the entirety of several towns.⁸ These severe weather forecasts throughout the month brought extensive business and school closures. RHC healthcare provider participants, their employees, service providers and key contacts necessary to the filing process were frequently unavailable as daily work, transportation and communications were difficult due to frequent need to seek shelter, to road closures and to the coordination and activation of necessary safety measures.

On Tuesday, April 30, 2019 the Governor of Oklahoma declared a state of emergency in 52 counties affected by the severe storms, tornadoes, straight-line winds and flooding. Shortly thereafter, on May 8, 2019 and May 24, 2019, the Governor amended the original order to include the remaining 25 counties.⁹ President Trump issued an Emergency Declaration on May 25, 2019 for 10 Oklahoma counties.¹⁰ The President and FEMA subsequently approved disaster assistance for 17 counties between June 2 and June 11, 2019. Governor Stitt announced on June 11, 2019 that the state will continue to request additional counties as damage assessments are completed.

⁷ See Exhibit 6, May Weather Brings Disaster to Oklahoma (June 3, 2019), http://climate.ok.gov/index.php/site/page/news/may_weather_brings_disaster_to_oklahoma.

⁸ See Exhibit 2; Exhibit 7, *Oklahoma storms destroy homes, force evacuations*, The Oklahoman (May 23, 2019), <https://oklahoman.com/gallery/6040144/oklahoma-floods-destroy-homes-evacuate-towns>.

⁹ See Exhibit 4, Governor Kevin Stitt, Press Releases, (May 1, 2019-June 11, 2019) <https://www.governor.ok.gov/newsroom?textQuery=&dateFrom=2019-05-01&dateEnd=2019-06-13&button=Search>.

¹⁰ Exhibit 8, President Trump, President Donald J. Trump Approves Oklahoma Emergency Declaration (May 25, 2019) <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-approves-oklahoma-emergency-declaration/>.

To submit funding requests for HCF applicants, USAC requires applicants to complete an FCC Form 462, accompanied by all supporting documentation, including copies of all bids received, scoring matrices, and signed contracts.¹¹

Vital staff and businesses necessary to complete the funding request process, including service providers in the Tulsa and Oklahoma City area, were not able to come to work or perform business duties. This included performing circuit and data relocation and providing documents and information for participating healthcare providers to file their FCC RHC Program documents by the May 31 deadline. Because Kellogg & Sovereign could not obtain this information for its applicants, it was unable to file funding requests on their behalf. Also, due to these weather events, Kellogg & Sovereign was closed for almost three business days. Closing during business hours greatly affected the workflow, causing major obstructions in the funding request process. Kellogg & Sovereign put forth the greatest effort to submit all funding request by the deadline.

Within a week of the deadline, Kellogg and Sovereign had obtained the necessary documentation from applicants and service providers and was prepared to file these additional funding requests. Most could have been submitted even earlier. Unlike in the Schools and Libraries program, however, where applicants can submit applications for funding after the deadline, in the RHC program, USAC's systems will not allow applicants to file after the deadline has passed.¹² Nevertheless, Kellogg and Sovereign has prepared each of these funding requests and they were ready for submission to USAC. USAC's system will allow the funding

¹¹ See USAC RHC Process Overview, Step 6, <https://www.usac.org/rhc/healthcare-connect/Individual/step06/default.aspx>.

¹² In fact, USAC terminates submissions to the system as of 11 p.m. Central time on the day of the deadline.

requests forms to be populated, but they cannot be submitted. Each funding request has been populated.

To show that the funding request forms were ready for submission within 14 days of the deadline, attached please find each funding request and a screenshot showing the last edit date on USAC's system before June 14, 2019.¹³

Requests for waiver are due within 60 days.¹⁴ As such, this waiver request is timely filed.

II. A WAIVER OF THE APPLICATION DEADLINE IS IN THE PUBLIC INTEREST DUE TO THE NATURAL DISASTERS THAT AFFECTED OKLAHOMA JUST PRIOR TO THE DEADLINE

Any of the Commission's rules may be waived if good cause is shown.¹⁵ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.¹⁶ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁷

These waiver requests are warranted and are in the public interest. First, these waiver requests are warranted due to the extreme weather events in Oklahoma in the days just before the filing deadline. As described above, the state was essentially shut down for days at a time. Once the immediate storms had passed, residents still had to cope with lack of electricity and the inability to get into their offices due to the significant flooding.

¹³ Exhibit 9.

¹⁴ 47 C.F.R. § 54.720(a).

¹⁵ 47 C.F.R. § 1.3.

¹⁶ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁷ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

Second, the Commission has granted waivers of deadlines in the universal service programs where hurricanes or other natural disasters affected beneficiaries' ability to comply with those deadlines. For example, the Commission waived E-rate invoicing deadlines in October 2018 to those Florida schools and libraries affected by Hurricane Michael, citing the extensive damage and close proximity of the hurricane's occurrence to the invoice deadline.¹⁸ Previously, in October 2017, the Wireline Competition Bureau (Bureau) released an order conditionally granting, on an emergency basis, certain waivers of filing and service implementation deadlines for USF recipients, including RHC program participants, located in counties that the Federal Emergency Management Agency (FEMA) had declared eligible for individual disaster assistance in the wake of Hurricanes Harvey, Irma and Maria.¹⁹ Similarly, in October 2017, the Bureau waived E-rate deadlines for schools and libraries in the eight counties declared major disaster areas eligible for federal disaster relief due to a series of wildfires in Northern California.²⁰ In these orders, the Commission gave applicants 90 to 150 calendar days after the order to submit their forms or other required filings.²¹

As in those situations where the Bureau granted deadline waivers, the unrelenting storms and flooding in Oklahoma have caused widespread and catastrophic damage, destroyed and damaged countless buildings, displaced residents and disrupted electric power and communications. Like the circumstances with Hurricane Michael, where the hurricane hit just

¹⁸ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, DA 18-1101 (WCB Oct. 26, 2018) (*Hurricane Michael Relief Order*).

¹⁹ See *Schools and Libraries Universal Service Support Mechanism et al.*, CC Docket Nos. 02-6 et al., Order, DA 17-984 (WCB Oct. 6, 2017) (*2017 Hurricanes Relief Order*).

²⁰ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, DA 19-15 (WCB Jan. 3, 2019) (*California Wildfires Michael Relief Order*).

²¹ *Hurricane Michael Relief Order* at ¶ 5; *2017 Hurricanes Relief Order* at ¶ 7; *California Wildfires Relief Order* at ¶ 6.

before the invoice extension filing deadline, here the storms were pounding Oklahoma for the entire month before the RHC filing deadline and all 77 Oklahoma counties were under an active state of emergency only three days before the filing deadline. On May 27, 2019, the mayor of Tulsa urged residents to relocate prior to the next wave of storms.²²

Further, even without the natural disaster that has occurred, these waiver requests are consistent with Commission precedent ruling on deadline waiver requests for universal service applicants, even where no special circumstances exist, as they do here. In the E-rate program, the Commission has found that schools and libraries that filed their applications within 14 days of the submission deadline should be granted a waiver of the deadline.²³ In the RHC context, the Bureau found that waiver of an application filing deadline is not appropriate where the applicant failed to file the FCC Form within a “reasonable time” after the deadline, but the implication inherent in that statement is that a waiver is appropriate where the applicant filed or attempted to file within a reasonable time.²⁴ The request is also consistent with the Commission’s rule that the deadline to submit a funding request under the Healthcare Connect fund is June 30 for the funding year that begins the previous July 1.²⁵

²² Exhibit 10, John Bacon, *Oklahoma, Arkansas cities brace for ‘the Worst Flood in our History,’* USA Today (May 27, 2019) <https://www.usatoday.com/story/news/nation/2019/05/27/oklahoma-arkansas-brace-for-record-floods/1249936001/>. Cox is located in Tulsa.

²³ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, para. 8 (2010) (*Academy of Math and Science Order*) (finding special circumstances exist to justify granting waiver requests where, for example, petitioners filed their FCC Forms 471 within 14 days after the FCC Form 471 filing window deadline).

²⁴ See *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket Nos. 02-6 and WC Docket Nos. 02-60, 06-122, Public Notice, DA 18-1270 at pp. 10-11, n.26 (WCB 2018). This decision cited to the E-rate *Academy of Math and Science Order*, which suggests that the Bureau believes the E-rate standard would be appropriate for the RHC program as well.

²⁵ Commission regulations state that “[t]he deadline to submit a funding commitment request under the Telecommunications Program and the Healthcare Connect Fund is June 30 for the funding year that begins on the previous July 1.” 47 C.F.R. § 54.675(c)(4). See also *In the Matter of Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, FCC 19-45, para. 13 (rel. May 20, 2019). This order

Kellogg and Sovereign respectfully argues that a waiver in this case would be consistent with the Bureau's precedent, because these applications would have been filed within 14 days had USAC's portal allowed them to be filed. As demonstrated in the attachments to this waiver request, Kellogg and Sovereign had prepared the funding requests no later than June 13, 2019—within the 14-day grace period allowed by the E-rate program. But for USAC's system not allowing the funding requests to be officially submitted, even though they are complete, the funding requests would have been filed already. This waiver request itself is being filed just a few days after the 14-day grace period, so if it is granted the funding requests will be filed within a "reasonable time," consistent with the RHC decisions and Commission rule cited above.

If the Commission grants this waiver request, the funding requests can be submitted through USAC's portal the same day. USAC has just started to review the funding requests filed by May 31, so allowing these few FRNs to be submitted at this time will not harm the administrative process.

also cited to the Commission's regulations setting forth the filing window deadline as June 30 for the funding year beginning on the previous July 1. *See id.* at n.37.

III. CONCLUSION

Kellogg and Sovereign therefore respectfully asks that the Commission waive the FY 2019 Healthcare Connect Fund filing deadline and direct USAC's Rural Healthcare Division to process these funding requests as "submitted within the window."

Respectfully,



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*Counsel for Kellogg & Sovereign
Consulting, LLC*

June 19, 2019

CERTIFICATE OF SERVICE

This is to certify that on this 19th day of June, 2019, a true and correct copy of the foregoing Request for Waiver was sent via email to the Rural Health Care Division, Universal Service Administrative Company at the RHC-appeals@usac.org address.

/s/ Theresa Schrader

Theresa Schrader

Exhibit List

Affidavit of Shannon Tice

- Exhibit 1 List of Affected Funding Requests
- Exhibit 2 Manny Fernandez, *'Blocked Off from Civilization': Floodwaters Turn Oklahoma Town Into an Island*, New York Times (May 28, 2019)
- Exhibit 3 Doug Criss, *Every Single County in Oklahoma is Under a State of Emergency*, CNN (May 28, 2019)
- Exhibit 4 Stetson Payne, *Update: 'Extremely dangerous and life-threatening situation': Flood warning through Friday afternoon*, Tulsa World (May 29, 2019)
- Exhibit 5 Press releases from federal and state government regarding designation of counties as disaster areas
- Exhibit 6 May Weather Brings Disaster to Oklahoma (June 3, 2019)
- Exhibit 7 *Oklahoma storms destroy homes, force evacuations*, The Oklahoman (May 23, 2019)
- Exhibit 8 President Trump, President Donald J. Trump Approves Oklahoma Emergency Declaration (May 25, 2019)
- Exhibit 9 Funding request forms with screenshots showing the last edit date was June 12, 2019
- Exhibit 10 John Bacon, *Oklahoma, Arkansas cities brace for 'the Worst Flood in our History'*, USA Today (May 27, 2019)

Affidavit of Shannon Tice

STATE OF OKLAHOMA)
) SS
COUNTY OF PONTOTOC)

I, Shannon Tice, swear:

1. That I am a Senior Account Manager for Kellogg & Sovereign Consulting. I was hired for that position in December 2015.
2. I personally assisted these affected health care providers with their funding requests and attempted to submit them to USAC.
3. That I have read the foregoing Request for Waiver and avow the information stated therein is true and correct to the best of my knowledge and belief.

Further Affiant Sayeth Not.



Shannon Tice
Senior Account Manager
Kellogg & Sovereign Consulting
1101 Stadium Drive
Ada, OK 74820
580-559-8326

VERIFICATION

STATE OF OKLAHOMA)
) SS
COUNTY OF PONTOTOC)

COMES NOW, Shannon Tice, and being first duly sworn upon my oath, state that I have read the foregoing Affidavit, and that the facts contained therein are true and correct to the best of my knowledge, information and belief, and that I sign the same as my free act and deed.


Shannon Tice

On this 18th day of June, 2019, before me, a Notary Public in and for said state, personally appeared Shannon Tice, known to me to be the person who executed the within Affidavit, and acknowledged to me that she executed the same for the purposes therein stated and that she executed the same as her free act and deed.


Notary Public

My Commission Expires: 8/29/2019



EXHIBIT 1

HCP Name	HCP #	FRN	Funding Year
Jackson County Memorial Hospital	10202	19668531	2019
Jackson County Memorial Hospital	10202	19668571	2019
Jackson County Memorial Hospital	10202	19668561	2019
Memorial Hospital of Stilwell	15217	19668121	2019
Memorial Hospital of Stilwell	15217	19668131	2019
JCMH - Family Care Clinic of Mangum	15862	19668551	2019
Jackson County Memorial Hospital - Counseling Center	16560	19668541	2019
Variety Care, Inc.	46665	19666881	2019
Variety Care, Inc.	46665	19668331	2019
Caring Hands Healthcare Network	51747	19667981	2019
Kiamichi Family Medical Center Consortium	52411	19667941	2019

EXHIBIT 2

'Blocked Off From Civilization': Floodwaters Turn Oklahoma Town Into an Island

By **Manny Fernandez**

May 28, 2019

BRAGGS, Okla. — Flooding has turned a rural town in eastern Oklahoma into an island — cut off on nearly all sides by water.

To get gas, people in Braggs write their names on their gas cans and a friend or neighbor makes a gas run by boat to the mainland. There are feed runs for people's livestock, medicine runs, grocery runs. The power was just turned back on for many residents on Sunday night, and more than a dozen people — including children and the elderly — were evacuated by two of the Oklahoma National Guard's Black Hawk helicopters.



By The New York Times

Since late last week, when storms flooded the Arkansas River, nearly everyone and everything that has gone in and out of town has been transported by air or by water. Floodwaters stretch for almost a mile over Highway 10, a main artery so submerged that even longtime residents have a hard time picking out landmarks.



Members of the Army Corps of Engineers and the Oklahoma National Guard placed sandbags beneath the flood wall in Tulsa, Okla. Joseph Rushmore for The New York Times

“We’re just blocked off from civilization,” said Carrie Ross, 35, a nurse in Braggs whose family has lived in town for years.

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Braggs is but one storm-battered snapshot of life lately on the Arkansas River.

Oklahoma and Arkansas were collectively holding their breaths and watching the river on Tuesday, as widespread flooding and dam releases threatened riverside cities and put increased pressure on aging levees amid a forecast that called for even more rain.

In Arkansas, the river topped two flood levees in Logan and Perry Counties, and shelters opened in Fort Smith, Ark. In Oklahoma, all of the state’s 77 counties remained in a state of emergency, and the Oklahoma Department of Emergency Management reported six fatalities and 107 injuries attributed to the flooding and severe weather.

The Army Corps of Engineers has increased the release of water into the Arkansas River from the Keystone Dam in Oklahoma to 275,000 cubic feet per second, hoping to keep floodwaters from overtopping the dam’s spillway.



Flooded buildings in Fort Gibson, Okla., north of Braggs along the Arkansas River.
Beth Hall for The New York Times

In Bixby, a Tulsa suburb of 24,000 on the river, where the National Guard is filling sandbags, officials texted an alert Tuesday morning: “As soon as residents believe the situation warrants, they are encouraged to evacuate voluntarily.” In Tulsa, the state’s second-largest city, officials continued to monitor the levees, but said the dam and the levees in Tulsa County were so far working as they should.

“We are planning for and preparing for the flood of record, and we think everybody along the Arkansas River corridor ought to be doing the same,” the mayor of Tulsa, G.T. Bynum, told reporters on Tuesday afternoon. “While it’s high risk, there is not an emergency behind the levees right now. It’s a high-risk situation when you’re talking about infrastructure that’s being tested in such a strong way.”

Braggs is usually a slow-paced town, home to 259, in the hilly country in Muskogee County nearly 100 miles east of Tulsa. It’s a place of farmland and giant catfish. Low-flying fireflies flicker in the night sky amid the music of the frogs. In the pitch-black countryside Monday night, a young man on a dirt bike pulled up to the edge of the flooding, unzipped his backpack and started fishing. Something that sounded like a gunshot rang out: Locals figured someone had shot a snake, which have been rampant in the floodwaters.

But making do with so little access to the outside world has been difficult. There were not a lot of amenities in town to begin with. There is one gas station (it was out of gas but reopened Tuesday), a couple of restaurants, a convenience store and Donna's Malt Shop — but no grocery stores.



Rescue teams brought supplies through the flooded Manard Bayou in Braggs.
Beth Hall for The New York Times

Because people here are used to a little isolation, and to keeping to themselves, Braggs has quickly adjusted to life as an island. Overnight, residents turned their boats into water taxis, giving people rides out of town to dry land and back. But just getting to the transit points to get back into town — makeshift docks where the floodwaters end at parks or on highways — takes time because of the many roads that are closed.

After days of being cut off, frustration and anxiety are quietly spreading.

Some residents wondered aloud why there have been few state and federal disaster resources in Braggs. And there has been another local controversy: One of the roads into town goes through a National Guard training center, which was not flooded. Yet the public had not been allowed access to that road.

On Monday evening, Ms. Ross was at her mother's house; her sunburned neighbors and relatives were gathered around the dining table, coordinating the logistics of Braggs life. Her husband, siblings and other relatives were out doing impromptu emergency response — ferrying people on boats or making supply runs to stores on the other side.

Ms. Ross had to tell her boss that she could not report for work on Tuesday. She could get to dry land on a boat, but once there, she had no vehicle and no ride to get to the clinic. She and many others in town had not left Braggs since last week.



“We’ve got a lot of people praying in Braggs, and people probably who normally don’t pray have been praying,” said Pat Arney, a Braggs resident.
Beth Hall for The New York Times

“It could be a lot worse,” said Brinda Coleman, 60, Ms. Ross’s mother. “I don’t think we’re that bad off. We’re getting supplies in here.”

Braggs is one of the communities in Oklahoma affected most by the storm, but the flooding for the most part only encircles it. Much of the town — about six square miles of it, residents said — is dry, though some properties on the outskirts were deluged. Most of the roads are open and clear. With the power restored, and the weather sunny at times, life has seemed deceptively normal.

“Normally, you’re secluded,” said Shawn Cogdill, a neighbor of Ms. Coleman’s. “I mean, that’s just the way it is out here. So it’s not like any different. The only difference is, you can’t leave.”

Pat Arney’s home is surrounded by water, just as Braggs is.

“I’ll have a little island for quite awhile,” said Ms. Arney, 70, a Braggs resident for more than three decades who lives on the outskirts of town next to the river. The flood that people in this part of Oklahoma recall was the one in 1986, but Ms. Arney and others said the current one was worse.



Wendy and Sameson Spencer looked through supplies at the Braggs Fire Department, where an emergency operations center had been set up to help residents.

Beth Hall for The New York Times

“We’ve got a lot of people praying in Braggs, and people probably who normally don’t pray have been praying,” she said.

The Oklahoma National Guard is working with local officials to make improvements to a seven-mile stretch of road in neighboring Cherokee County that will allow Braggs residents to drive in and out of town. Capt. Matt Blubaugh, a spokesman with the Oklahoma National Guard’s Joint Task Force, said in a statement that Braggs residents were previously not authorized to pass through the guard’s Camp Gruber training facility because the connecting road in Cherokee County was impassable.

“The Oklahoma National Guard wanted to prevent people from being stuck in an emergency situation, especially in an area with bad to no cellular service,” Captain Blubaugh said. “If the work on that road is successful and the road made passable, then Braggs residents will be allowed to pass through Camp Gruber.”

Early Monday evening, Mike Ogle, 65, spent his Memorial Day doing what he has done since last week: using his boat to ferry people and supplies back and forth between Braggs and the nearby town of Fort Gibson.



Horses grazed around the floodwaters. In Oklahoma, all of the state’s 77 counties remained in a state of emergency. Beth Hall for The New York Times

Mr. Ogle's home in Fort Gibson was flooded up to the attic; he passed it on every boat trip he made to Braggs. People in Braggs have offered him cash for the rides, but he has refused it. One man brought him a carton of eggs as a thank-you, and it sat at the front of his boat.

"It's kind of an insult to take money," Mr. Ogle said. "I had people show up at my house that I didn't know that helped me get my stuff out. I put stuff in the attic, but it wasn't high enough."

As the sun dipped low in the sky, Mr. Ogle's ferry into Braggs passed smoothly across a surreal water-world. Somewhere under the water to the left was a neighbor's hayfield. Poking out of the water to the right were little strips of metal, the tips of submerged stop signs. Residents were told it could take weeks for the water levels to drop, and the increased releases from Keystone Dam might raise it even higher.

"It didn't sink in, until I went swimming into my house," Mr. Ogle said as he sat at the wheel of the boat, choking back tears. "I had to wear a life jacket, because it's overhead."

Then he quickly dismissed his own problems, saying, "Other people got it worse."

A version of this article appears in print on May 28, 2019, on Page A1 of the New York edition with the headline: Floodwaters In Oklahoma Strand Town

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EXHIBIT 3

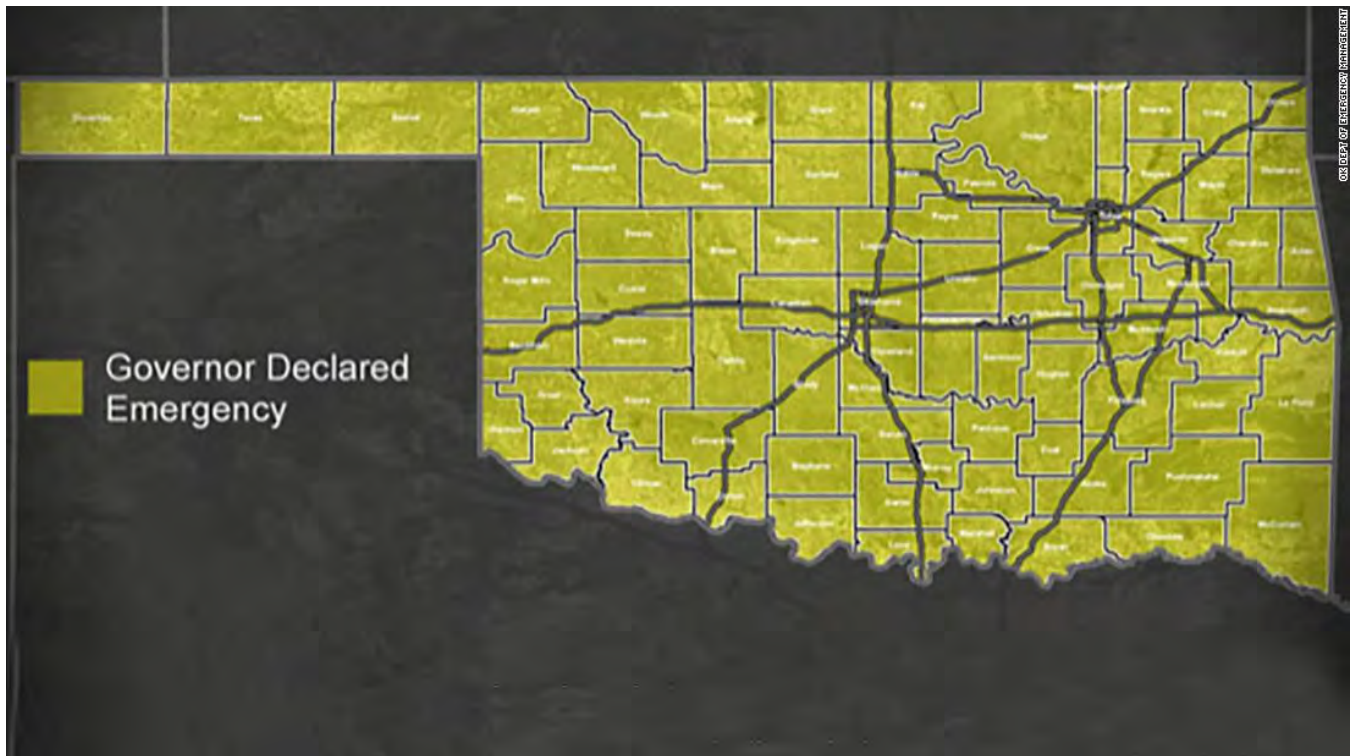
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Every single county in Oklahoma is under a state of emergency

By [Doug Criss](#), CNN

Updated 4:55 PM ET, Tue May 28, 2019



Take a look at this state map put out by the Oklahoma Department of Emergency Management.

It shows the counties that are under a state of emergency because of historic flooding. There are 77 counties in the state and every one of them is under the declaration.

The Department of Emergency Management says it's because of "flooding, severe storms, tornadoes, and straight-line winds that began in April."

At least [six people died](#) in Oklahoma over the past few days as flooding, severe storms and tornadoes impacted the state. And Gov. Kevin Stitt said things could still get worse this week.

"We still have water still rising in the east," he said Monday. "We are not out of the woods yet."

In Tulsa, the weather service warned of severe weather threats ramping back up late Tuesday with storms, "very large hail" and tornado threats all in the cards. The flooding has closed Tulsa's River Spirit
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Casino, where water has flooded the resort's pool bar, swallowing the pool and even entering the tiki bar and resort's spa building, the resort said.

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The emergency declaration means state agencies can start making emergency purchases of items needed to speed the delivery of resources to local jurisdictions. It's also the first step toward getting federal assistance if needed later.

Tulsa Mayor G.T. Bynum warned his city to "prepare for the worst case scenario that we've had" in the city's history of flooding.

The Army Corps of Engineers is currently releasing 275,000 cubic feet per second from the Keystone Dam, according to Bynum, and will continue at this level through Thursday, when they hope to decrease those releases.

While the levees "continue to operate as they're designed," Bynum said, the expected rainfall could be problematic and record levels of release of water from the Keystone Dam could be seen.

Bynum said officials "are planning for and preparing for the flood of record, and we think everybody along the Arkansas River corridor ought to be doing the same."

CNN's Darran Simon and Marlena Baldacci contributed to this report.

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